

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|-----------------------------|---|--------------------------------|
| Nathaniel Palmer, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | C.A. No.: 4:05-CV-3301-RBH-TER |
| |) | |
| House of Blues Myrtle Beach |) | |
| Restaurant Corp., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| _____ |) | |

DEFENDANT'S MOTION TO DISMISS

NOW COMES Defendant House of Blues Myrtle Beach Restaurant Corp. (hereinafter "House of Blues"), by and through counsel, and files this Motion to Dismiss the Second, Third, and Fifth Causes of Action of Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Specifically, the House of Blues is moving to dismiss Plaintiff's causes of action for intentional infliction of emotional distress, negligence, and wrongful termination in violation of public policy.

In support of this motion, the House of Blues is contemporaneously filing a Memorandum of Law in Support of its Motion to Dismiss.

WHEREFORE, Defendant House of Blues respectfully requests that this Court GRANT its Motion to Dismiss the Defendant's Second, Third, and Fifth Causes of Action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted, and to grant any other such relief to the House of Blues as the Court deems just and proper.

Dated this the 3rd day of February, 2006.

Respectfully submitted,

s/ Eugene H. Matthews

Eugene H. Matthews (FID #7141)

Douglas C. Baxter (FID# 4778)

Richardson, Plowden, Carpenter & Robinson, P.A.

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Attorney for Defendant House of Blues

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| Nathaniel Palmer, |) | |
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| Plaintiff, |) | |
| |) | |
| vs. |) | Civil Action No.: 4:04-141-R |
| |) | |
| House of Blues Myrtle Beach |) | |
| Restaurant Corp., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I, Eugene H. Matthews, an attorney with Richardson, Plowden, Carpenter & Robinson, P.A., do hereby certify that a copy of Defendant's Motion to Dismiss in the above-referenced matter, has been served electronically upon the following counsel of record:

George N. Spirakis, Esquire
310 79th Avenue North
Myrtle Beach, South Carolina 29572

Dated this 3rd day of February, 2006.

s/ Eugene H. Matthews